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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Jonathan Peter Vincent Drazin

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EXAMINER

INGVOLDSTAD, BENNETT

ART UNIT

PAPER NUMBER

2427

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/560,631	Applicant(s) DRAZIN, JONATHAN PETER VINCENT	
	Examiner Bennett Ingvaldstad	Art Unit 2427	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 40-77 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 40-77 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9 July 2009 has been entered.

Response to Arguments

Applicant's arguments filed 9 July 2009 have been fully considered. Arguments against the previous art rejections are moot in view of the new rejections.

Claim Objections

Claims 51 and 72 are objected to for containing the apparent misspelling "proscribed". Note that "proscribed" has a separate meaning from "prescribed", the latter appearing to be the intended word based on the context and the examiner's understanding of the claim. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 2427

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 40, 41, 46, 52–55, 60–62, 65–67, and 73–76 are rejected under 35

U.S.C. 102(b) as being anticipated by US 2003/0041335 (“Patry”).

Claim 40. Patry teaches a television system for presenting television services to a user comprising a local memory (para. 0002); means for determining the availability of data from a data source (para. 0014); means for capturing a first portion of data (announcement signals, para. 0035) and then powering down a portion of the system (entering standby mode, para. 0066); means for storing the first portion having a specified identity (paras. 0037–0042); means for capturing a second portion when a reference between the second portion and first portion is found (capturing update data, para. 0043); the second portion providing interactive services (para. 0003, last sentence) and being transmitted at a specified time of availability (para. 0041); and means for monitoring the time and causing the means for capturing the second portion to be activated at the scheduled time (para. 0066).

Claim 41. Patry further teaches that the second portion is transmitted as a conditionally linked software object (para. 0034: it is linked by identifiers to certain decoder models, versions, and makers), and the system resolves the identities of the objects while they are captured (identities are resolved by announcement data, para. 0063; which may be received at the same time as the update data so the capturing is performed immediately, para. 0052).

Claim 46. Patry further teaches broadcasting the data update on a platform-independent channel (paras. 0052, 0053) and the system converting the data update into a local executable (para. 0001).

Claim 52. Patry further teaches that the system is operable to perform the capturing/downloading while the system is not presenting services (paras. 0044, 0066).

Claim 53. Patry further teaches that the data source is a broadcast television network (para. 0003).

Claim 54. Patry further teaches determining whether update data has a higher version than the saved data and downloading the data appropriately (para. 0063).

Claim 55. Patry further teaches powering up portions of the system prior to receipt of the data (para. 0066).

Claim 60. Patry further teaches the system comprising a set-top-box (a decoder/receiver, para. 0002).

Claim 61. Patry further teaches broadcasting the first announcement portion before the data update portions (para. 0035).

Claim 62. Patry further teaches the data update comprising executables (para. 0001).

Claim 65. Patry further teaches the method executed by the system of claim 40.

Claims 66, 67, and 73–75 are analogous to claims 41, 46, 52, 53, and 60 and are met as such.

Claim 76. Patry further teaches a computer program product comprising code for implementing the method of claim 65.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patry in view of WO98/50861 ("Perlman").

Claim 42. Patry does not further disclose means for detecting the presence of an external device.

Perlman discloses a television host system that automatically detects the presence and identity of a hardware adapter (pg. 1, l. 33 – pg. 2, l. 9).

It would have been obvious to have implemented the automatic peripheral recognition disclosed by Perlman in the system of Patry for the purpose of allowing the user to connect peripheral devices that are automatically recognized by the system for downloading of device drivers (pg. 1, l. 25-30).

Claim 43. Patry in view of Perlman further that a data object containing executable driver software is downloaded conditionally upon the presence and identity of a hardware adapter (Perlman pg. 1, l. 33 – pg. 2, l. 9).

Claims 44 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patry in view of Perlman, further in view of US 6930598 ("Weiss").

Claim 44. Patry in view of Perlman does not explicitly teach that the external hardware adapter may be a communications adapter.

Weiss discloses a method for switching communication means by plugging in a communications adapter (col. 6, lls. 19-25).

It would have been obvious to have used the method for switching communication means with the system of Patry in view of Perlman for the purpose of allowing the user to easily create connections with diverse devices by plugging in adaptors that establish links between the devices.

Claim 45. Patry in view of Perlman and Weiss further discloses that the communications adapter communicates via wireless means (Weiss col. 6, l. 19-25).

Claims 47–51, 56, 64, 68–72, and 77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patry in view of WO 00/64180 (“Del Sordo”).

Claim 47. Patry teaches a nonvolatile memory (para. 0004), but does not further teach a volatile memory.

Del Sordo teaches that set top boxes may comprise both volatile and non-volatile memories (RAM is volatile memory, see Fig. 3).

It would have been obvious to include a volatile memory in the system of Patry for the purpose of temporarily storing data in RAM in order to quickly access the data.

Claim 48. Del Sordo further teaches that a first memory area may be volatile (Del Sordo Fig. 3).

Claim 49. Del Sordo further teaches that a volatile memory may be RAM (Fig. 3).
Del Sordo does not explicitly teach that the RAM is DRAM.

However, due to the limited number of types of RAM available, the selection of DRAM would have been obvious to try to one of ordinary skill in the art.

Claim 50. Patry in view of Del Sordo does not further teach that the nonvolatile memory is a hard drive.

However, due to the limited number of types of nonvolatile memories available, the selection of a hard drive would have been obvious to try to one of ordinary skill in the art.

Claim 51. Patry does not explicitly teach that the first and second portions of data are processed based on steps prescribed in code contained within a downloaded object.

Del Sordo teaches that the base code, platform code, and O/S code are all downloaded objects (pgs. 8, 9).

It would have been obvious to apply Del Sordo's teaching so that Patry's data update system can update the base code, platform code, and O/S code in order to keep such code up to date. The above underlying codes handle the operation of the system and thus prescribe how Patry's system processes the incoming first and second portions, so the claim is met.

Claim 56. Patry does not further teach that a portion of the captured data comprises a service entitlement or disentitlement message addressed to the system.

Del Sordo teaches that an updateable host system may receive entitlement management messages from the headend (pg. 13).

It would have been obvious to include entitlement management messages in the system of Patry for the purpose of managing the system's entitlements.

Claim 64. Patry does not further teach using a checksum or digital signature.

Del Sordo teaches that downloaded objects may be verified using a digital signature (pg. 16, lls. 14–21).

It would have been obvious to implement digital signatures in the system of Patry for the purpose of validating and authorizing the downloaded data objects.

Claims 68–72 are met as indicated above.

Claim 77 is further met as indicated above.

Claims 57–59 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patry in view of US 2003/0217369 (“Heredia”).

Claim 57. Patry does not further teach that interactive services comprise EPGs.

Heredia teaches that interactive services comprise EPGs (para. 0002).

It would have been obvious for Patry's interactive service application to include an EPG application for the purpose of providing program guide data to the user in an interactive format.

Claim 58. Patry in view of Heredia further teaches that interactive services comprise games (Heredia para. 0002).

Claim 59. Patry in view of Heredia further teaches that interactive services comprise recording/playing stored videos (Heredia para. 0002).

Claim 63. Patry in view of Heredia further teaches that the second portion may comprise data for determining the appearance of the interactive service (the data update may add new functionality, Patry para. 0001. New functionality thus may be applied to a graphical user interface, Heredia para. 0002; which determines the onscreen appearance of the interface).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bennett Ingvoldstad whose telephone number is (571) 270-3431. The examiner can normally be reached on M–F 9–5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Beliveau can be reached on (571) 272-7343. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2427

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bennett Ingvaldstad/
Examiner, Art Unit 2427

/Scott Beliveau/
Supervisory Patent Examiner, Art Unit 2427